

Georgia Department of Human Resources Division of Aging Services

Section 100

Administrative Guidelines and Requirements for Area Agencies on Aging

§110 Grievance Procedures for Participants in Non-Medicaid Home and Community Based Services Programs

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§110.1 Purpose and Scope

Section 306(a)(10) of the Older Americans Act requires Area Agencies to provide grievance procedures for older individuals who are dissatisfied with or denied services. Section 307(a)(5)(B) of the Act requires the State Unit on Aging to issue guidelines to AAAs regarding grievance procedures. This chapter provides guidance to Area Agencies in developing and implementing policies and procedures for handling grievances of participants who are dissatisfied with or denied services. Area agencies and providers shall assure that all program participants are informed of their right to file a grievance and of the process to be used at the time of application for services and upon admission to services. Any written materials provided to applicants/recipients are to be concise, in sufficiently large print (14 point type or larger) for ease in reading and in language the applicants/recipients use and best understand.

§110.2 Applicability

Redress of grievances shall be available to applicants for and recipients of services provided through any and all non-Medicaid fund sources administered by the Area Agency. The Division does not, however, interpret the placement of applicants for service into waiting list status as a denial of service.

§110.3 Concept of Due Process

Due process entails the implementation of specific procedures designed to safeguard the legal rights of individuals and to assure maximum fairness in decision making. Grievance policies and procedures shall assure older adults and their families that their concerns will be considered in a fair and timely manner by the Area Agency, regardless of the ultimate legitimacy of the claim.

§110.4 Participants' Right to File a Grievance or Complaint

Participants in Older Americans Act and other federally and state-funded non-Medicaid home and community based services have the right to file grievances or complaints regarding specific actions or activities affecting their personal participation in the program or the conduct of the program as it relates to all participants at a given site or location without fear of reprisal.

- (a) Participants may file grievances orally or in writing.

- (b) Presentation of the grievance: An authorized representative, including a caregiver, may present a grievance on behalf of a participant. If the client chooses this option, s/he shall accompany the representative to every meeting at which the complaint is discussed, unless the client is so functionally impaired that s/he cannot reasonably attend or participate in a meaningful way. If necessary, the meeting will be held in the client's home, if his/her condition limits his/her mobility outside the home.
- (c) Resolution: Every effort shall be made to resolve grievances at the lowest level of authority to avoid the creation of burdensome documentation and ineffective use of staff time. Complaints shall be directed as appropriate to the situation to the following authorities in the order indicated:
 - (1) site manager or director or case manager;
 - (2) program or project director;
 - (3) subcontract agency director;
 - (4) area agency on aging director;
 - (5) the Director of the Regional Development Center or Board of Directors of a non-profit Area Agency;
 - (6) the Director of the Division of Aging Services or her/his designee.
- (d) Grievances relating to alleged violations of a client's rights provided by law may be directed to the Division of Aging Services, only after efforts to resolve the matter locally have failed. This does not remove the right of the individual to pursue other avenues of redress, such as filing with the Office of Civil Rights of the U.S. Department of Health and Human Services.
- (e) Alternative filing for the LTCOP. If a grievance relates to the Long-Term Care Ombudsman Program, the complainant may present the grievance in the following order:
 - (1) to the Long Term Care Coordinator for the planning and service area; *then to*
 - (2) the Office of the State Long Term Care Ombudsman.¹

¹ Also refer to the "Georgia Long-Term Care Ombudsman Program Policies and Procedures."

- (f) Timeframes for filing. Grievances may be filed at any time. If the issue is related to an event which occurred at a specific time and place, the participant(s) shall notify the site manager or other appropriate authority within ten days of the event having occurred of the intent to file the complaint.

§110.5 Form and Content of Grievances

- (a) Oral grievances. An oral grievance shall state in sufficient detail the basis for the complaint and the reasons the participant objects to the action or circumstances in question. AAAs/ providers shall supply to a written outline to prepare for the oral filing to assure the coverage of the following points:
 - (1) the notice, document, policy, situation or event which is the reason for the complaint;
 - (2) significant dates pertaining to the complaint;
 - (3) the names of organizations and individuals involved;
 - (4) reference to any provision of the Older Americans Act or other laws, regulations or policies believed to have been violated by site management, subcontract agency, or area agency on aging.
 - (5) the action or decision desired by the participant to resolve the issue.
- (b) Written grievances. A participant may choose to make the complaint/grievance in written form, which will contain all elements of an oral complaint as specified in §110.5(a) preceding.

§110.6 Disposition of Grievances

- (a) If the facts support the grievance, the responsible authority shall, within 30 working days of the receipt of the written grievance, make the changes necessary to resolve the issue.
- (b) If the site manager's/service provider director's response is not satisfactory to the participant, the participant may, within ten working days, take the matter for further consideration to the next higher authority as specified in §110.4(c), relating to resolving issues at the lowest possible level of authority.

- (c) The site manager or service provider director, and each level of authority at which the grievance/complaint remains unresolved, shall within ten working days following receipt of a request (oral or written) for continuing grievance action, develop a memorandum detailing the circumstances of the grievance, attach all pertinent documentation regarding the findings and actions taken at that level of authority and forward it to the next level with a request for a meeting of the parties concerned with the issue.
- (d) A participant may withdraw a grievance at any time.
- (e) When the grievance is resolved, all parties shall provide joint written notification of having reached agreement to each level of authority involved.

§110.7 Fair Hearings

If a grievance/complaint regarding a denial, reduction, suspension or termination of services cannot be resolved through informal means, including mediation, at the lower levels of authority, the AAA shall make available to the participant a fair hearing by someone other than the person who made the decision affecting the participant's services. The AAA may enlist the assistance of a knowledgeable, unbiased person from another organization or agency to act as hearing officer.

- (a) Representation -- The applicant/recipient shall have the right to be represented by a friend, advocate or attorney at his/her own expense.
- (b) Information -- Prior to a hearing, the client and his/her chosen representative shall have access to information regarding the service case, including client records, intake and screening forms, eligibility determination forms, or any other documentation that was used to make the decision regarding denial, reduction, suspension or termination of services.
- (c) Face-to-face discussion: Reference §110.2(b) regarding the client's physical presence at any meetings regarding the grievance/complaint.
- (d) Written notice of decision: The deciding authority will provide to the applicant/recipient written notice of the decision in a timely manner.

**§110.8 Review of Resolution
Process**

The Area agency shall develop a process for internal review of the procedures used in resolving each grievance/complaint to determine if the local authorities at all levels adhered to the process and correctly followed the prescribed steps.

Effective Date:

Upon issuance. Area Agencies shall have a reasonable period of time to develop and implement, or review and amend existing policies and procedures and to assure that providers and program participants are fully aware of the local policies and procedures and guidelines and requirements transmitted by this chapter.